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MINISTERIAL ORDER OF JOSÉ DE GÁLVEZ ESTABLISHING A UNIFORM DUTY ON THE IMPORTATION OF NEGRO SLAVES INTO THE INDIES; AND CONVENTION BETWEEN SPAIN AND THE UNITED PROVINCES REGULATING THE RETURN OF DESERTERS AND FUGITIVES IN THEIR AMERICAN COLONIES

The two documents here given are to be found in the collection of East Florida papers in the Division of Manuscripts in the Library of Congress. The first is found in 39 M 3, the second in 46 G 4. The Spanish is from photostat prints of the originals.

The Ministerial Order of José de Gálvez is evidence of the knowledge that the Minister of the Indies possessed of the conditions in the Spanish Americas. Those who have read the scholarly work of Doctor Priestley[1] are familiar with the means by which he had acquired this knowledge. The training and experience gained by José de Gálvez as Visitor-General of New Spain from 1765 to 1771 had eminently well fitted him for the arduous duties of Minister of the Indies in the reign of the enlightened ruler, Charles III. The document is evidence also of views held at that time of the economic conditions of Spain and its colonies. Agriculture and mining are held to be basic industries upon which depend commerce and the happiness of the king's subjects. The labor problem in the Indies is acute and can be improved by facilitating the importation of negro slaves into those dominions. For Gálvez finds that negro slaves are the only laborers who can be used most widely in the colonies. For this reason import duties on negro slaves are to be made uniform; and facilities for their importation into the Indies are to be improved and enlarged. Hence this order of 1784.

[1] Herbert Ingram Priestly: *José de Gálvez, Visitor-General of New Spain, 1765–1771*. University of California Publications in History, Volume V. University of California Press, Berkeley, 1916.

The document is of importance further as an evidence of the enlightened colonial policy of Charles III. and his ministers. By the commercial code of 1778,[2] Charles III. had declared free the principal ports of Spain and its possessions. The monopoly which Sevilla and Cadiz, Vera Cruz and Porto Bello had enjoyed for so many years had by this act been abolished. The principal ports of the Indies could therefore freely trade with Sevilla, Cadiz, Barcelona, Malaga, Santander, San Sebastian, Bilbao, Vigo, Gijon, and San Lúcar; and among themselves. The Count of Floridablanca (Jose Moñino), the First Minister of State of Charles III. from 1777 to the death of the king in 1788, and of Charles IV. to the time of his dismissal in 1792, was, in the opinion of the writer, the man primarily responsible for the enlightened colonial policy of those last eleven years of the reign of Charles III. True, José de Gálvez had been made Minister of the Indies in 1776, a year before Floridablanca became First Minister of State and President of the Council of Ministers. The great influence which Floridablanca exerted over Charles III. from the very beginning of the ministry[3] leads the writer to conclude that the colonial policy was the policy of Floridablanca and not of José de Gálvez. The larger knowledge of national and international affairs possessed by Floridablanca enabled him to make this colonial policy a part of his general policy. The imperative need of conciliating the vassals of those kingdoms—to use the language of Gálvez's order—was fully realized by Charles III. and Floridablanca. The recent *rôle* that Spain had been compelled to play in the international struggle against Great Britain had placed it in a most trying position in its relations with the colonists. Floridablanca had

[2] This was the famous *Reglamento para el comercio libre de España á Indias* of 12th October, 1778. See Moses, *Spain's Declining Power in South America*, p. 166.

[3] There are interesting passages in the correspondence of the minister of Catherine II. of Russia, M. Etienne de Zinowief; and of the Austrian Ambassadors at the court of Spain, two sons of the great Austrian Chancellor, Prince Kaunitz-Rietberg, in the Royal and Imperial Archives of Austria at Vienna. Excerpts from these bearing on the great influence of Floridablanca with Charles III. are given in the writer's doctor's thesis on *Floridablancas Handelspolitik gegen Oesterreich, 1777–1792*, 1913. Munich.

really been forced to take up arms in behalf of a group of rebellious English colonists in a war with the mother country. And Spain had played no mean part in the war for its threat to invade England prevented the British from using a larger naval force against the United States.[4] Floridablanca realized fully too the importance of the suggestion of Count Aranda in 1783 to Charles III. for a division of the Indies into three kingdoms with a Bourbon prince over each and all under the rule of Charles III. as Emperor. The colonists in the Americas were therefore conscious of change bound to come sooner or later in the form of their government. The spirit of revolution thrives upon notions of inevitable change. The movements too of the newly created nation in North America must be closely watched. Boundary questions were becoming very acute especially as regards the Mississippi. Louisiana and the Floridas were to be set in order—no mean problems in themselves. So great caution, foresight, and sagacity were needed on the part of Spain if it were to prevent a war of even greater proportions than that between Great Britain and the thirteen American colonies. The order of José de Gálvez here given was only part of the general scheme of conciliating the Spanish American colonies. For the order is larger than that which would facilitate the importation of negro slaves into the Indies. The order should therefore be considered as only another bit of evidence of the general policy of Floridablanca in national as well as international affairs.

The other document, the convention between Spain and the United Provinces, very naturally calls to mind our Fugitive Slave Law of 1793. There need not necessarily be any connection between the two documents. The fact that they appear so closely together is itself of interest.

There are certain humane features about the Dutch-Spanish methods of procedure that should arrest our attention. Article five, for example, specifically stipulates that the punishment for desertion alone shall be humane. The death penalty, mutila-

[4] See Charles E. Chapman, *A History of Spain*, p. 397.

tion, perpetual imprisonment, etc., may not be inflicted upon a fugitive slave who is guilty of no crime other than desertion. The fugitive slave alleged to have committed a crime punishable by death shall have charges of criminal offense made and proved against him at the time of his capture and before the judge of the territory into which he had escaped. Article six, too, is important and rather novel. But if religious freedom were to obtain in the dominions of their High Mightinesses, why not effective in the case of returned fugitive negro slaves?

N. ANDREW N. CLEVEN.

The University of Arkansas,
Fayetteville, Arkansas.
January 22, 1921.

CONVENCION ENTRE EL REY NUESTRO SEÑOR Y LOS ESTADOS GENERALES DE LAS PROVINCIAS UNIDAS, PARA LA RECÍPROCA RESTITUCION DE DESERTORES Y FUGITIVOS ENTRE SUS COLONIAS DE AMÉRICA. FIRMADA EN ARANJUEZ Á 23 DE JUNIO DE 1791. RATIFICADA POR S. M. EN SAN LORENZO EL REAL Á 19 DE AGOSTO, Y POR SS. AA. PP. EN EL HAYA Á 22 DEL MISMO MES Y AÑO. [Cut] DE ORDEN DEL REY. EN MADRID, EN LA IMPRENTA REAL.

El Rey de España y los Estados Generales de las Provincias Unidas, movidos de las quejas reiteradas de sus respectivas Colonias en América, y deseosos de cortarlas de raiz, han tenido por oportuno para conseguirlo concluir una Convencion por la qual se establece la restitucion recíproca de sus Desertores y Fugitivos entre sus Colonias respectivas; cuya disposicion al paso que impedirá en adelante la desercion y sus conseqüencias perniciosas, estrechará los lazos de amistad y union entre los Colonos de ambas partes, y no dexará que desear á S. M. y SS. AA. PP.

A este fin, y para arreglar las condiciones de esta Convencion tan deseada, han conferido las Altas Partes Contratantes sus Plenos Poderes, por parte de S. M. Católica á D. Josef Moñino, Conde de Floridablanca, Caballero de la insigne Orden del Toyson, Gran Cruz de la de Cárlos III, primer Secretario de Estado y del Despacho; y por los

Estados Generales á D. Jacobo Godefroi, Conde de Rechteren, su Embaxador cerca de S. M. Católica; los quales despues de varias conferencias relativas á los mutuos intereses de sus Soberanos, han convenido en los Artículos siguientes.

ARTÍCULO PRIMERO.

Se establece la restitucion recíproca de los Fugitivos Blancos ó Negros entre todas las Posesiones Españolas en América, y las Colonias Holandesas, particularmente entre aquellas en que las quejas de desercion han sido mas freqüentes, á saber, entre Puerto Rico y S. Eustaquio, Coro y Curazao, los Establecimientos Españoles en el Orinoco, y Esequebo, Demerary, Berbices y Surinam.

ARTÍCULO II.

Se verificará la mencionada restitucion con toda legalidad al precio establecido en el Artículo siguiente, y á la primera reclamacion que hagan los Colonos sus Dueños, los quales tendrán que executarla en el término de un año, contado desde el dia de su desercion; pues pasado este tiempo no habrá ya lugar á reclamar los Esclavos, los quales pertenecerán desde entonces al Soberano del parage á que se hayan refugiado.

ARTÍCULO III.

Luego que se reclamen algunos Negros ó Negras, el Xefe ó Gobernador, que es á quien debe hacerse la reclamacion, tomará las medidas mas eficaces para su arresto, y para que despues de presos se entreguen á sus Dueños, los quales han de pagar á razon de un real de plata al dia por la manutencion de cada uno, desde aquel en que se les asegure, y además una gratificacion de veinte y cinco pesos fuertes por cada Esclavo para atender á los gastos de su prision, y recompensar á los que hayan contribuido á su arresto.

ARTÍCULO IV.

Animados los Plenipotenciarios de los mismos sentimientos de humanidad estipulan, que en adelante los Negros ó Negras Fugitivos no podrán ser castigados á su vuelta por causa de su desercion con pena capital, mutilacion, prision perpetua &c. á menos que además de la fuga fuesen reos de otros delitos, que por su naturaleza y calidad

merezcan la pena de muerte; en cuyo caso deberán hacerlo presente al tiempo de reclamarlos.

ARTÍCULO V.

Si en los parages donde se hubiesen refugiado los Negros ó Negras Fugitivos, hubiesen cometido algun delito digno de castigo, los Jueces de aquellos lugares entenderán en la causa, y no restituirán los Esclavos sino despues de dexar la Justicia satisfecha. Si hubiesen cometido algun robo, no se entregarán hasta que sus Amos hayan satisfecho el valor de él; y para que no haya que hablar de las deudas que los Fugitivos hayan podido contraer, se remediará este abuso publicando por una y otra parte, quedan incapaces de contraerlas durante su fuga ó su prision.

ARTÍCULO VI.

Como la Religion no debe servir de pretexto ni motivo para reusar la restitucion, los Fugitivos Holandeses, que durante su residencia en las Colonias Españolas hubiesen abrazado la Religion Católica, podrán perseverar en ella á su vuelta á las Colonias Holandesas, donde gozarán, sin ser molestados, de la libertad de culto establecida por el gobierno de SS. AA. PP. en todos sus Dominios.

ARTÍCULO VII.

Habiéndose comprehendido á los Soldados Desertores baxo la denominacion de Desertores Blancos en el Artículo primero, se establece igualmente la restitucion recíproca de los que abandonando el servicio en las Colonias Españolas ú Holandesas, se refugiaren á las de los Españoles ú Holandeses; pero con la restriccion expresa de no pagarse por estos gratificacion alguna, satisfaciendo puramente los Dueños que los reclamen los gastos de su prision, y los que se juzguen indispensables hasta su restitucion, que deberá hacerse con los vestidos, armas, y quanto llevasen encima.

ARTÍCULO VIII.

Se dará noticia á los Xefes, Gobernadores y Comandantes de las Colonias vecinas respectivas de la presente Convencion, encargándoles su exâcta execucion, y que á este efecto la den toda la publicidad posible en sus Gobiernos y distritos respectivos.

ARTÍCULO IX.

La presente Convencion será ratificada y confirmada en el término de dos meses contados desde el dia de su firma.

En fe de lo qual Nosotros los infrascritos Plenipotenciarios de S. M. Católica y SS. AA. PP. hemos firmado en sus nombres y en virtud de sus Plenos Poderes la presente Convencion, y la hemos puesto los sellos de nuestras Armas.

En Aranjuez á 23 de Junio de 1791.

EL CONDE DE FLORIDABLANCA. [Seal]

COMTE DE RECHTEREN. [Seal]

[TRANSLATION]

Convention between the King our Lord and the States-General of the United Provinces for the Mutual Return of Deserters and Fugitives in their Colonies of America.

Confirmed at *Aranjuez* on the twenty-third of June, 1791.

Ratified by his Majesty at *San Lorenzo el Real* on the nineteenth of August, and by their High Mightinesses at the Hague on the twenty-second of the same month and year.

By order of the King.

The King of Spain and the States-General of the United Provinces, moved by the reiterated complaints of desertion in their colonies of America and desiring to remove (uproot, *cortarlas de raiz*) the causes for desertion, and to make impossible further complaints of desertion, consider the moment opportune for the adoption of a plan for the mutual return of deserters and fugitives. The plan should prevent desertion and its vicious consequences in the future, and should also aid in establishing a closer bond of union and amity among their colonists in America which cannot fail to be satisfactory to His Majesty and to their High Mightinesses.

With this end in view and in order to determine the nature of the provisions of this highly desired convention, the high contracting parties have conferred full and plenary powers on, for His Catholic Majesty, Don Josef Moñino, the Count of Floridablanca, Knight of the Order of the Golden Fleece, Knight of the Order of the Grand Cross of Charles the Third, First Minister of State and Dispatch; and on, for the States-General of the United Provinces, Don Jacobo Godfroi, the Count of Rechteren, their Ambassador near to His Catholic Majesty. These Plenipotentiaries, after having held various conferences touching the mutual interests of their respective sovereigns, have agreed upon the following articles.

Article One.—It is hereby ordered that there shall be a mutual return of fugitives (white and negroid) between all the Spanish possessions in America and the Dutch Colonies, particularly between those districts in which complaints of desertion have been most frequent, namely, between Puerto Rico and S. Eustaquio, Coro and Curazao, the Spanish Establishments on the Orinoco and Esequebo, Demerary, Berbices and Surinam.

Article Two.—The mutual return ordered in the article above shall be made in conformity with due process of law; and at the price stipulated in the articles following. Claims upon deserters and fugitives shall be made within the period

of a year, counting from the date of desertion. After the expiration of one year claims cannot legally be made for the return of the fugitive. The slaves shall, after the expiration of one year from the time of desertion, belong to the ruler of the territory to which the slaves have escaped.

Article Three.—When fugitive slaves (negro men and women) have been identified, the governor, who is the proper person to whom claims for the return of the fugitives shall be made, shall take the most effective means for the arrest of the fugitives. After capture the slave shall be returned to the owner who shall pay a fee of a silver *real* per day for the maintenance of each slave from the date of capture; and, in addition, a fee of twenty-five *pesos* for each slave in order to pay for the cost of the slave in prison, and to reward those who were instrumental in the slave's capture.

Article Four.—Fugitive slaves (negro men and women) shall not henceforth be punished with capital punishment, mutilation, perpetual imprisonment, etc., for desertion unless guilty of crimes other than desertion which by their nature and degree deserve the penalty of death. In every case such crime shall be preferred and proved against the slave at the time that claims for his return are made.

Article Five.—Fugitive slaves (negro men and women) who have committed crimes in the districts to which they have escaped shall be tried by the judge in that district. The judge shall not permit the return of the slave until justice has been satisfied. The fugitive slave who has committed a theft or other robbery shall not be returned to the owner until the amount of the loss has been paid. Fugitive slaves can contract no debt during the period of their desertion or while in prison for which the owner shall be held responsible.

Article Six.—Religion shall not be considered as a cause or pretext for refusal to return fugitive slaves. Dutch fugitive slaves who may have become converts to Roman Catholicism while fugitives in Spanish territory shall not be compelled to renounce this faith upon their return to Dutch territory but shall have full freedom of worship which has been established by Their High Mightinesses in their dominions.

Article Seven.—Dutch or Spanish military deserters who shall have escaped to Holland or Spain, or into Dutch and Spanish colonies shall upon demand of the proper authorities be returned to their respective governments. It shall be expressly understood that when deserters are identified no fee shall be paid by those who claim them except such as shall be necessary to pay for their imprisonment and for their clothing, arms, and such other equipment as shall be deemed absolutely necessary.

Article Eight.—Notice shall be given to the chiefs, governors, and commanders of colonies adjoining those concerned in this convention, charging them with the definite execution of the provisions of this convention and with giving the provisions of this convention all possible publicity in their respective governments or districts.

Article Nine.—The present convention shall be ratified and confirmed within the period of two months from the date of the signing of the same.

In witness whereof the respective Plenipotentiaries have signed their names and affixed the seals of their arms.

THE COUNT OF FLORIDABLANCA
[Seal]

THE COUNT OF RECHTEREN
[Seal]

ÓRDEN DEL MINISTRO JOSÉ GÁLVEZ DEL 4 DE NOVIEMBRE DE 1784

Desvelado siempre el paternal amor del Rey nuestro Señor en proporcionar á sus amados Vasallos de América todos los medios que conduzcan á su mayor prosperidad, y riqueza, regula que uno de los mas útiles, y necesarios á este efecto, es el de facilitarles la introduccion de Negros Esclavos en aquellos dominios, como únicos brazos en la mayor parte de ellos para la agricultura, y trabajo de las Minas, que son los ramos de que depende el Comercio, y la felicidad de estos, y aquellos Reynos. Con este objeto se ha servido S. M. reducir en varias partes de Indias los derechos de entrada de los Negros, establecidos por Leyes, y Reales disposiciones, y concedido en otras, por motivos particulares, libertad absoluta de contribucion. Y siendo su Real ánimo, que todos sus Vasallos en general logren de la rebaxa de derechos, ha resuelto, que en donde no estuviere concedida la entera exêncion de ellos, se cobre solo un seis por ciento de introduccion de cada Negro, regulado su valor en ciento y cincuenta pesos, aunque tenga mayor precio, y sin diferencia de edad, sexô, ni clase, de modo que por cada cabeza se satisfagan únicamente por ahora nueve pesos en ambas Américas Españolas, llevándose á ellas en Naves que lo sean, ó en virtud de permisos particulares que se hayan despachado, ó se dieren en adelante para que se puedan conducir en Embarcaciones extrangeras. Comunícolo á V. S. ya V. mas. de órden de S. M. para que disponga su cumplimiento en el distrito de su mando.

Dios guarde á VS. y Vmd. muchos años. San Lorenzo 4 de Noviembre de 1784.

JPH DE GALVEZ (rubric).

On the printed document is written:

S.n Agustin de la Florida 16 de M.zo de 1785.

Tomese la razon de esta R.l Orden en la Contaduria Prãl de Real Hazda de esta Plaza, para su devido cumplim.to siempre que ocurra lo que se previene en el asumpto.

Viz.te Man.l de Zespedes (Rubric).

Tomese la razon en la Contad.a prãl de Extõ de esta Plaza. S.n Agustin de la Florida, 16 de Marzo de 1785.

Gonzalo Zamorano (rubric).

Addressed: "S.res Gov.or y Oficiales R.s de S.n Agustin de la Florida."

Docket:

S.n Lorenzo 4 de Nov.re de 1784

R.l orñ Comunicada por el Ex.mo s.or D.n Jph de Galvez, al Gov.r y ofiz.s R.s de S.n Ag.n de la Florida.

Para que en donde no estubiere conzedida la entera libertad de derechos p.a la introducion de Negros esclavos, en ambas Americas, se cobre solo un Seis por Ciento, por Cada uno, regulado su valor en 150 p.s aunq.e tenga mayor precio, sin distincion de edad ni sexo.

[TRANSLATION]

Ministerial Order of José de Gálvez of November 4, 1784

The paternal love of the King our Lord ever zealous in providing his beloved vassals of America with all those means which will contribute to their greatest prosperity and wealth, recognizes that one of the most useful and necessary means to this end, is that of facilitating the introduction of negro slaves into those dominions, as the only laborers (*brazos*) in the greater part of those dominions for agriculture and mining which are the bases upon which depend the commerce and happiness of these and those kingdoms. With this end in mind His Majesty has been pleased to reduce in different parts of the Indies the duties on the importation of negro slaves established by laws and royal orders; and has permitted in others, for particular reasons, absolute freedom from taxation. And since it is his royal will that all his vassals in general should enjoy the reduction in duties has ordered that where the duties have not been abolished there shall be collected a duty of only six per cent on the introduction of each negro slave, placing the value of each slave at one hundred and fifty *pesos*, although the slave be worth more, and without distinction as to age, sex, and class; so as to make the duty per head at the present time only nine *pesos* in both of the Spanish Americas on negro slaves transported thence in ships of the regular line, or in ships having special permits for such service, or in foreign ships which may have received special permission to transport negro slaves. I communicate this to your Excellencies and Lordships by order of His Majesty in order that you may arrange for the execution of it in the districts under your jurisdiction.

God protect your Excellencies and Lordships many years.

San Lorenzo the fourth of November, 1784.

JPH DE GALVEZ (rubric).

The printed document is indorsed as follows:

San Agustin de la Florida, March 16, 1785.

Let account of this Royal Order be taken in the chief accountancy of the Royal Treasury of this Fort, so that it may be duly observed whenever what is provided in this regard happens.

Vicente Manuel de Zespedes (rubric).

Let account be taken in the chief accountancy of the Army of this fort. San Agustin de la Florida, March 16, 1785.

Gonzalo Zamorano (rubric).

Addressed: The Governor and Royal Officials of San Agustin de la Florida.

Docket:

San Lorenzo, November 4, 1784.

Royal order communicated by his Excellency Don Joseph de Galvez to the Governor and Royal Officials of San Agustin de la Florida.

Ordering that in all cases in which complete exemption of duties has not been granted for the introduction of negro slaves into both Americas, a duty of six per cent only be collected on each one, assessed at a value of 150 pesos, although his price may be in excess of that amount, without any distinction being made for age or sex.